IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

WEDNESDAY, THE 18TH JULY 2007 / 27TH ASHADHA 1929

Crl.Rev.Pet.No. 2717 of 2007()

CRA.127/04 OF ADDL.SESSIONS COURT(ADHOC-III), N.PARAVUR
CC.544/01 OF JFCM-II, ALUVA

REVN. PETITIONER: APPELLANT/ACCUSED

KESAVAN, S/O.KUNJAN, MULANTHURUTHY HOUSE, THENGOTTUKARA KARA, BHARATH MATHA COLLEGE P.O., THEVACKAL, KAKKANAD, ERNAKULAM DISTRICT.

BY ADV. SRI.WILSON URMESE

RESPONDENTS: RESPONDENT/COMPLAINANT & STATE

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1. GEORGE D'CRUZ,
   GRACE LAND, EDAPPALLY, ERNAKULAM.

2. STATE OF KERALA, REPRESENTED BY THE
   PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
   ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.K.S.SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 18/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

Crl. R.P. No. 2717 OF 2007

Dated this the 18th day of July, 2007

O R D E R

The petitioner, who is the accused in C.C.No.544/2001 on the file of the JFCM-II, Aluva, for an offence punishable under section 138 of the Negotiable Instruments Act, 1881, challenges the conviction entered and the sentence passed concurrently against him by the courts below. When the matter came up for admission today, it was submitted by the learned counsel for the revision petitioner that on 1.5.2006 when the matter was pending in appeal before the lower appellate court, the parties had settled the matter before the Lok Adalath, which had passed an award also recording the settlement. However, on 4.1.2007, the Additional Sessions Judge(Adhoc-III), North Paravur, before whom no arguments were address on behalf of the appellant before it, pronounced judgment confirming the conviction entered and the sentence passed against the revision petitioner.

2. If, as a matter of fact, the matter had been settled before the Lok Adalath as is evidenced by a certified copy of the award passed by the Lok Adalath made available to me by the

learned counsel for the revision petitioner, the proper course would have been to observe that the composition recorded by the Lok Adalath will have the effect of an acquittal under section 320 (8) Cr.P.C. At any rate, the dismissal of the appeal on the merits was unwarranted. Accordingly, the judgment under appeal is set aside and the matter is remitted to the lower appellate court for disposal in accordance with law. The revision petitioner shall appear before the court below on 6.8.2007 and apprise that court about the composition recorded by the Lok Adalath on 13.5.2006.

This revision is allowed as above.

(V. RAMKUMAR, JUDGE)

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